

REMARKS

The Office Action, mailed October 7, 2002, including the prior art cited and relied upon, the objections to the specification and certain claims and the rejections as set forth have all been carefully considered. The application has been amended in a manner which is believed to place it in condition for allowance.

The specification has been amended with respect to the trademark and the Abstract has been reduced in length.

Claims 12 and 14 have been rewritten to avoid the objections relating to antecedence of certain terms employed in these claims.

The claims have been amended by canceling claim 3, amending most of the retained claims and adding new dependent claims 18 and 19.

In the rejection, claim 1 has been rejected as being anticipated under 35 U.S.C. §102(b) by Ytterberg et al. ("Ytterberg"), Bozzo and Ohtomo and as unpatentable under 35 U.S.C. §103(a) over Hervey in view of Bozzo.

Ytterberg discloses an apparatus and a method for measuring the flatness of a floor by utilizing an inclinometer to determine the relative elevation of the floor at the beginning and end of a survey line in which a laser beam device is used. While Ytterberg discloses a mobile cart 6, the structure indicated by

reference numeral 402 is defined as a body for the self-propelled inclinometer. The body 402 includes a key pad 404 atop the body 402 "to facilitate control and data entry". This structure is not anticipatory of the structure defined in original claim 1 inasmuch as Ytterberg does not disclose a handle 402. Additionally, the subject matter of claim 3 relating to the pointers, although in broader form, has been incorporated into claim 1 and this structure clearly is not anticipated by Ytterberg. In fact, original claim 3 was not rejected on the basis of Ytterberg. Accordingly, it is submitted that claim 1, as amended is not anticipated by Ytterberg.

Likewise, the structure defined in claim 1 is not anticipated by Bozzo which discloses a device to project a laser beam onto a surface as a flat beam by projecting the laser beam through a lens which transforms the beam into a flat beam. Bozzo also fails to disclose the structure now incorporated into claim 1 since there is no suggestion or teaching whatsoever in Bozzo of the pointer arrangement as now employed in amended claim 1. It is noted that claim 3 which originally included the pointers was not rejected on Bozzo.

Claim 1 was also rejected as anticipated by the structure disclosed in Ohtomo which discloses a device to level and scan by utilizing a laser beam. In the rejection, the Examiner has interpreted Ohtomo to include a pair of spaced aligned pointers 8 and 9 for positioning in alignment with a reference line 6 and 7 on

said one surface. However, the reference lines 8 and 9 are for alignment with each other to position the rotating unit 3 so that when the positioning marks 8 and 9 coincide with each other the laser beam is emitted in a vertical downward direction from the rotating unit 3. (Column 1, lines 51-58). The Ohtomo structure is not the same nor equivalent to "at least two longitudinally spaced pointers mounted on said base" as now defined in claim 1 and originally defined in claim 3 which has been canceled. Accordingly, Applicant submits that the amended claim 1 is not anticipated by Ohtomo.

The rejection of claim 1 under 35 U.S.C. 103 as unpatentable over Hervey in view of Bozzo has clearly been avoided by amendments made to claim 1 in which the pointers of claim 3 have been added with it being noted that this ground of rejection is not applied to claim 3. The Hervey patent is a surveying and measuring instrument including a pair of spaced telescopes which both sight a target for the purpose of measuring the distance to a fixed point and is no way relevant to the structure of the claimed invention in claim 1. While Bozzo discloses a laser beam emitting device, a person of ordinary skill in this art would have no suggestion or teaching, nor would it be obvious for such a person, to substitute a laser beam emitting device such as shown in Bozzo in lieu of the two telescopes utilized in Hervey. Accordingly, it is submitted

that claim 1 also distinguishes patentably from a composite structure combining Bozzo with Hervey.

In view of the above discussion of amended claim 1 with respect to each of the rejections relied upon, Applicant submits that claim 1, as amended, is not anticipated under 35 U.S.C. §102 and not obvious to one skilled in the art under 35 U.S.C. §103. Accordingly, reconsideration and allowance of claim 1 is requested.

Claim 2 has been amended by virtue of it remaining dependent upon amended claim 1 and it is believed to not be anticipated by Ytterberg as discussed previously with respect to claim 1.

Claim 3 has been canceled and the subject matter thereof, although modified, incorporated into claim 1. In this regard, as discussed, Ohtomo does not include the pointers and their structural relationship to each other and to the base.

Claim 4 has been rejected under 35 U.S.C. §102(a) as anticipated by Bozzo and as being unpatentable under 35 U.S.C. §103 as unpatentable over Hervey in view of Bozzo. As discussed above in connection with claim 1, the Hervey patent discloses a pair of telescopes utilized in a manner entirely different from that of the present invention and also as discussed, Bozzo does not include pointers anticipatory of those now included in claim 1 which is parent to claim 4. In this regard, claim 3, now incorporated into claim 1, although modified, has not been rejected on Bozzo.

Accordingly it is submitted that claim 4 distinguishes patentably from Bozzo and that the structure in claim 4 would not be obvious in view of Hervey and Bozzo.

Claim 5 which depends from claim 4 and thus ultimately from claim 1 has been rejected under 35 U.S.C. §103 as unpatentable over Ytterberg in view of Watts. The Watts patent discloses a method and apparatus to map the terrain of a land surface or the like. Claim 5 depends from amended claim 1 and is believed to clearly distinguish over Ytterberg. Even if support wheels from Watts were used to support the body of Ytterberg, claim 5 still distinguishes patentably from any possible composite structure formed by combining Watts with Ytterberg.

Claims 6 and 7 have been rejected along with claims 1 and 2 as being anticipated by Ytterberg. However, claims 6 and 7 depend from claim 1 which has been amended to include the pointers as defined in canceled claim 3. Ytterberg does not disclose any such arrangement even though Ytterberg includes a body 402 supported by wheels. However, Ytterberg does not disclose the pointers as defined in claims 6 and 7 since Ytterberg does not have a structure equivalent to the pointers.

Claims 8 and 9 have been rejected as unpatentable over Hervey in view of Bozzo. Claims 8 and 9 depend from preceding claims which include the pointers now included in amended claim 1. Quite clearly, Hervey does not disclose any such structure and

moreover a person of ordinary skill in the art would not substitute laser beam emitters for the telescopes of Hervey and even if such a substitution was made, claims 8 and 9 still would distinguish patentably by setting forth the pointers now incorporated into amended claim 1.

Claim 10 has been rejected under 35 U.S.C. §103 as unpatentable over Ytterberg in view of Brunson which discloses a device to measure the thread pitch on a bolt with a measuring caliper and processor. As discussed with respect to amended claim 1, Ytterberg does not disclose the pointers incorporated into claim 1 from claim 3. Initially, it would not be obvious to a person of ordinary skill to include a measurement unit as taught by Brunson into Ytterberg in view of the total dissimilarity of the subject matters involved. Further, such a combination of Ytterberg and Brunson would not result in a composite structure equivalent to that now being claimed since neither of these prior patents disclose pointers on the base as set forth in parent claim 1.

Claim 11 has been rejected under 35 U.S.C. §103 as unpatentable over Hervey in view of Bozzo. As discussed previously in the rejection of claim 4, Hervey discloses a pair of telescopes that can be laterally adjusted. However, it would not be obvious to utilize laser beam emitters in lieu of the pair of telescopes in Hervey since this would produce a structure entirely different from either Hervey or Bozzo. Moreover, claim 11 depends from parent

claim 1 and several other intermediate claims which clearly distinguish claim 11 from any composite structure by combining Bozzo with Hervey.

Claim 12 has been rejected under 35 U.S.C. §103 as unpatentable over Ytterberg in view of Thomson which discloses a device for measuring distance from one fixed point utilizing lasers and computers to calculate the distance. Claim 12 also depends ultimately from claim 1 and is believed to be clearly patentable for the reasons that the pointers incorporated into claim 1 is not disclosed in either Ytterberg or Thomson.

Claim 13 has been rejected as being anticipated by Bozzo or unpatentable over Hervey in view of Bozzo. As discussed previously with respect to claim 1 from which claim 13 depends, Bozzo does not disclose pointers as defined in claim 1 and Hervey modified with Bozzo also does not disclose a structure equivalent to that in claim 13.

Claim 14 has been rejected under 35 U.S.C. §102 as anticipated by Costales which discloses a single laser mounted on a stationary tripod to emit a laser beam both upwardly and downwardly for impinging on a ceiling or overhead surface and a floor surface. However, the tripod support structure 14 is not a mobile structure and the unit 24 is a dual laser unit. This structure does not anticipate that defined in claim 14 since the tripod 14, 26 is not a mobile support structure functioning in the

manner as defined in claim 14. Therefore, Applicant submits that claim 14 is not anticipated by Costales.

Claim 15 has been rejected under 35 U.S.C. §103 as unpatentable over Hervey in view of Bozzo. As discussed previously, substitution of a laser beam device such as shown in Bozzo for each of the telescopes in Hervey would not be obvious to a person of ordinary skill in the art. Such a substitution would completely alter the structure and function of the Hervey device inasmuch as the function of the telescopes in Hervey and the laser beam device in Bozzo is entirely different.

Method claims 16 and 17 have been rejected under 35 U.S.C. §102 as anticipated by Ohtomo. However, the Ohtomo device does not disclose the tracking steps along a reference line on a floor surface with a mobile apparatus. In Ohtomo, the rotating unit 3 is manually rotated to make positioning marks 8 and 9 coincide so that the laser beam is emitted in vertical downward direction from the rotating unit 3. The laser beam is aligned with a reference point on the floor defined by the point of intersection of the marking lines 6 and 7 so that the scanning direction of the laser beam is aligned with the marking line 6 so that the rotating unit 3 can be rotated along a given angular range to align a locus of the laser beam with the marking line 6. Positioning of the device is performed in such a manner that it is aligned with the point of intersection of the marking lines 6 and 7 and that the

laser beam emitted in the direction of the rotation axis is aligned with a reference point marked on an extension of the marking line 7. This does not anticipate the step of tracking the device along a reference line inasmuch as the Bozzo device when positioned so that it is aligned with the point of intersection of the marking line 6 and 7 is not moved along or track either of the lines 6 and 7. The device in Ohtomo does not include a structure which functions in a manner equivalent to the step of tracking a reference line on a floor with a mobile apparatus as set forth in claim 16 and 17 inasmuch as Ohtomo in column 1, line 49 to column 2, line 5 does not define a tracking step along a reference line. There is no indication in Ohtomo that the leveling device 1, the main unit 2 or the rotating unit 3 is tracked along a reference line. From the description in Ohtomo the device is aligned with the point of intersection of the marking lines 6 and 7 and the emitted beam is in the direction of a reference point marked on an extension of the marking line 7. The rotating unit 3 emits a beam in perpendicular relation to the rotational axis of the unit 3. However, the leveling device 1 and unit 3 do not track along either of the reference lines 6 and 7. Accordingly, claims 16 and 17 are not anticipated by the structure disclosed in Ohtomo since Ohtomo does not disclose the method steps or accomplish the same function as the method defined in claims 16 and 17.

Claims 18 and 19 have been added to more clearly distinguish the invention from each of the prior patents of record by setting forth limitations relating to the handle structure, the relation of the upper end of the handle to a user, additional details of the linear measuring device and brake structure as well as specific structure of the laterally adjustable support arms to support the laser beam emitting devices in laterally spaced relation and the tape measure and index lines for indicating the position of the light emitting devices.

Applicant submits that these additional claims define patentably over the prior art of record.

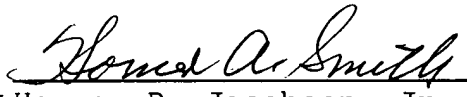
Based upon the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any questions or comments, she is cordially invited to telephone the undersigned attorney, so that the present application can receive an early Notice of Allowance.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attache pages are captioned "Version with markings to show changes made".

Respectfully submitted,

JACOBSON HOLMAN PLLC

By:

 Reg. NO
for Harvey B. Jacobson, Jr. 17393
Reg. No. 20,851

400 Seventh Street, N.W.
Washington, D.C. 20004
(202) 638-6666
Atty. Dkt. No.: P67041US0
HBJ/HAS/dlj
Date: January 30, 2003

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION

Page 23, replace the first paragraph (lines 1-5).

--The lasers useful in the present invention are conventional self-leveling lasers, which emit beams in five directions, three in the horizontal plane and two in the vertical plane. Such lasers are commercially available under the tradename ["RoboVector™"] ROBOVECTOR.--

Page 29, substitute the following paragraph for the paragraph after "ABSTRACT OF THE DISCLOSURE".

--A mobile apparatus and method to accurately transfer one or multiple points on one surface to one or multiple points on another surface, such as [from chalk or] a reference line or markings on a floor to target points on an overhead ceiling for hanging support brackets. The apparatus includes a base supported by four wheels and a [movable] leveled top plate [which can be leveled] to facilitate use on uneven surfaces. Laser brackets [are] mounted on said top plate [to] support fixed lasers for single point layout. [and laser] Laser brackets [are] mounted on the ends of transversely movable support arms [to hold] support movable lasers from said top plate for dual point layout. [The apparatus also includes vertical] Vertical pointers on said base position the base on the floor markings [to properly position the apparatus on the floor surface. The lasers are conventional self-

leveling lasers which emit a beam in five directions, three in the horizontal plane and two in the vertical plane]. A [resettable] linear measurement device accurately measures linear movement of the apparatus along the [reference line or markings] floor surface. A drum attachment [enables support of] supports a laser to provide indicator lines along radiuses in a horizontal and vertical plane.

IN THE CLAIMS

Please cancel claim 3 and amend claims 1, 2, 7, 8, 9, 11, 12 and 14 as follows:

1. (Amended) An apparatus for locating a point on one surface and indicating a corresponding point on another surface comprising a mobile wheeled base having an indicator thereon to position the base in predetermined relation to a point on one surface and a light beam emitting device mounted on said base in predetermined relation to said indicator to emit a light beam to impinge on another surface to indicate a point on said another surface corresponding to the point on said one surface, said indicator including at least two longitudinally spaced pointers mounted on said base for alignment with a reference line on said one surface.

2. (Amended) The apparatus as defined in claim 1, wherein said base [is a wheeled mobile cart having a] includes an

upwardly extending handle to enable manual movement of said base to a desired location on said one surface to position said [indicator] pointers in alignment with said [point] reference line on said one surface.

7. (Amended) The apparatus as defined in claim [1] 5, wherein said base includes a linear measuring device connected with said rear wheels to indicate linear movement of said base along said one surface.

8. (Amended) The apparatus as defined in claim 1, wherein said light beam emitting device includes a pair of laser beam emitting devices laterally adjustably supported from said base to enable laterally adjustable multiple points [on said one surface] to be indicated on said another surface from said one point on said one surface.

9. (Amended) The apparatus as defined in claim 8, wherein said pair of laser beam emitting devices are supported on a pair of parallel, laterally adjustable support arms, a [with] laser beam emitting [devices] device mounted on each support arm for transmitting multiple points to said another surface.

11. (Amended) The apparatus as defined in claim 9, wherein each of said support arms includes a flexible, rewindable tape measure associated therewith to indicate the scope of lateral movement of the laser beam devices mounted on said support arms.

12. (Amended) The apparatus as defined in claim 1, wherein said base includes a leveled top member, a second light beam emitting device mounted on said base, a pair of laser beam emitting device cradles mounted on the top member for supporting [a] said pair of laser beam emitting devices from said base for indicating multiple points on said another surface.

14. (Amended) An apparatus for identifying a target [points] point on an overhead surface from reference markings on a floor surface which comprises a wheeled mobile support structure having [an] at least one indicator thereon to position said support structure in a fixed relation to [a] at least one of said reference [marking] markings on said floor surface and at least one laser mounted on said support structure to [identify a] indicate at least one target point on said overhead surface at a predetermined location with respect to said reference [marking] markings.